

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ALVIN D. BRUTON,

Plaintiff,

vs.

No. CIV 00-528 MV/LCS

**SECRETARY OF THE ARMY and
ARMY BOARD FOR THE CORRECTION
OF MILITARY RECORDS,**

Defendants.

**MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION**

THIS MATTER came before the Court on Plaintiff's Motion to Reopen Case, filed October 6, 2000 (*Doc. 18*). For the reasons stated, I propose finding that the motion is not well-taken and recommend that it be denied.

Proposed Findings

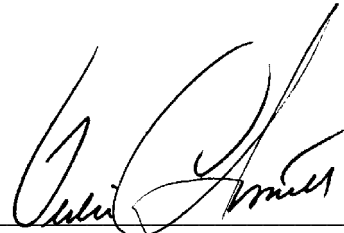
1. The Defendants argue that an order to reopen a case is appropriate when "(1) the court has made a manifest error of fact; (2) there is newly discovered evidence; or (3) there has been a change in the law." *Williams v. Weber*, 905 F.Supp. 1502, 1514 (D. Kan. 1995). They assert that the Plaintiff merely sets out the same issues and supporting evidence which he previously submitted in his response to Defendant's Motion to Dismiss.

2. The Court agrees with the Defendants in that the Plaintiff has failed to demonstrate that this Court made a manifest error of fact or law, or that there is newly discovered evidence, or

that there has been a change in the law. He merely presents the same argument asserted in his response brief to Defendant's Motion for Summary Judgment. Since the arguments posed in the Plaintiff's motion to reopen the case have already been ruled on, the Court proposes there is no merit to the Plaintiff's motion.

Recommended Disposition

I recommend that Plaintiff's Motion to Reopen Case, filed October 6, 2000 (*Doc. 18*), be DENIED. Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to §636(b)(1)(C), file written objections to such proposed findings and recommendations with the Clerk of the United States District Court, 333 Lomas Blvd. NW, Albuquerque, NM 87102. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

A handwritten signature in black ink, appearing to read 'Leslie C. Smith', is written over a horizontal line.

Leslie C. Smith
UNITED STATES MAGISTRATE JUDGE

